IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 18441 of 1994

Between:

1 Indian Oil Corporation Ltd., Rep. General Manager.
Indian Oil Bhawan, 139, Nungambakkam High Road,
Madras-600 034.
2 The Dy.General Manager (Personnel) Indian Oil Corporation Ltd.,
Indian Oil Bhawan, 139, Nungambakkam High Road,
Madras-600 034.
3 The Divisional Manager, Indian Oil Corporation Ltd.,
126, Sarojini Devi Road, Secunderabad-500 003.

..... PETITIONER(S)

AND

1 The Hon'ble Addl. Industrial Tribunal, cum- Addl. Labour Court,
Rep. Chairman and presiding Officer, 1st Floor,
Chandra Vihar, M.J.Road, Hyderabad.
2 Abdul Salam, S/o. Abdul Khadeer.
H.No. 55368, Patelnagar, Besides Gandhi Bhavan,
Nampally, Hyderabad.
3 Govt. of A.P., Rep. Secretary.
Incharge Labour, Secretariat,
Hyderabad.
4 Union of India (Dismissed). Rep. secretary.
Mining of Labour, Central Secretariat,
New Delhi.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to

issue notice and call for records and quash and set aside the Award made in I.D.No. 285/1993 dated 23/05/1994 on the file of the Addl. Industrial Tribunal-cum-Addl. Labour Court Hyderabad and declares the same as null and void and declare Sec. 2A(2) of I.D.Act is ultravires and unconstitutional and be struck down by issuing a writ of certiorari or any other appropriate writ or order or direction as the Hon'ble Court may deems fit and proper in the circumstances of the case and to grant such other relief.

Counsel for the Petitioner: MR.A.KRISHNA MURTHY

Counsel for the Respondent No.: GP FOR LABOUR

The Court made the following :

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ORDER:

1. This Writ Petition is filed assailing the award of the Additional Industrial Tribunal-cum- Additional Labour Court in I.D.No. 285 of 1993 dated 23.5.1994.

2. The second respondent-workman raised industrial dispute under Section 2(A)2 of the Industrial Disputes Act seeking reinstatement on the ground the termination of service with effect form 27.11.1980 is illegal. It was his case that he worked as Casual Labour in Nampally Depot from December 1972 to October, 1975 and Warangal Depot for February 1978 to May 1979. However, his services were abruptly terminated and the said termination is in violation of Section 25-F and 25-G of the Industrial Disputes Act. The Tribunal after hearing the parties and also after considering the evidence on record, passed the award as follows:

> "In the result an award is passed as follows:
>
> 1. The respondents shall reinstate the petitioner into service as a Casual labour within one month from the date of publication of this award.
> 2. The name of the petitioner in the approved list of casual labour of Nizamabad Depot shall be restored.
> 3. The petitioner shall be absorbed in the next future regular vacancy anywhere in the State of A.P.
> 4. The petitioner shall be paid the present wages as a casual labour and the minimum wages when absorbed in the regular post.
> 5. The petitioner can have the benefit of continuity of service for the

purpose of gratuity etc. But he will be placed below all the permanent employees in that cadre and will be deemed to be a temporary hand up to now as mentioned in 'Sundara Money's case.

6. He can be posted anywhere in the state of Andhra Pradesh.

7. The petitioner is not entitled to back wages. He is entitled to daily wages from one month after the publication of the award.

An award is passed accordingly."

3. The learned counsel for the petitioners submits that the award is wholly without jurisdiction and the Tribunal exceeded its jurisdiction while adjudicating the matter under Section 2A(2) of the Industrial Disputes Act. When the matter relates to termination of services, the question of directing the authorities to absorb the petitioner and to pay regular scales of pay and other benefits should not arise and therefore, the award is wholly illegal and the same is liable to be set aside.

4. Even though notice is served on the second respondent, he is not present and no representation is made on his behalf.

5. I have perused the award of the learned Tribunal. The only averment made in I.D.No. 285/1993 dated 23.5.1994 was that the termination was in violation of Sections 25(F) and 25(G) of the Industrial Disputes Act and that too the dispute was raised after ten years of the alleged termination. Under those circumstances, the Tribunal ought to have rejected the case on that ground but it went into the matter and granted relief, which is not within the jurisdiction of the Tribunal.

6. Even though there is no limitation prescribed under Section 2A(2), inasmuch as the Tribunal found there is violation of 25-F, the Tribunal at least could have granted relief of appointment as Casual Labour which he was doing prior to the alleged termination. Under those circumstances, I am of the considered view, that the award of the Tribunal is not sustainable and it requires modification. The second respondent-employee is entitled to be engaged as Casual Labour in accordance with the terms and conditions enlisted prior to the termination. The other reliefs granted by the Tribunal stand set aside.

7. Accordingly, the Writ Petition is allowed in part. No costs.

15.07.2004.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Hon'ble Addl. Industrial Tribunal, cum- Addl. Labour Court,
   Rep. Chairman and presiding Officer, 1st Floor,
   Chandra Vihar, M.J.Road, Hyderabad.
2. Govt. of A.P., Rep. Secretary.
   Incharge Labour, Secretariat,
   Hyderabad.
3. Union of India (Dismissed). Rep. secretary.
   Mining of Labour, Central Secretariat,
   New Delhi.

4. 2CCs to G.P for Labour, High Court Buildings, High Court of A.P., Hyderabad.

5. 2CD copies